



## **Amendments to Rule 326 IAC 11-7 Concerning Municipal Waste Combustors**

#06-434(APCB) / LSA Document #06-434

### **Overview**

On May 10, 2006, the U.S. EPA published a final rule amending the emission standards for existing large municipal waste combustors (MWC) at 40 CFR 60, Subpart Cb. This rulemaking adopts the amended emission limits to make state law consistent with federal law.

### **Citations Affected**

Amends: 326 IAC 11-7-3

Repeals: 326 IAC 11-7-9

### **Affected Persons**

There is only one source in Indiana to which this rule applies: Covanta Energy located in Marion County in Indianapolis.

### **Reason or Reasons for the Rule**

IDEM must incorporate the federal maximum achievable control technology (MACT) requirements for Clean Air Act Section 129/111(d) requirements into state rules or establish state requirements that are no less stringent than the emission guidelines.

### **Economic Impact of the Rule**

Because this emission standard is a federal requirement and businesses are required to comply, the state rulemaking will not result in additional costs to the regulated entities beyond the costs imposed by the federal rule.

### **Benefits of the Rule**

Citizens living and working in the vicinity of these businesses will benefit from the reduced emissions of hazardous air pollutants. IDEM will be able to enforce the standards by incorporating them into state law.

### **Description of the Rulemaking Project**

This rulemaking updates emission limits in 326 IAC 11-6 to be consistent with federal air emission standards for existing municipal

waste combustors (MWC). Existing MWC units are units that commenced construction on or before September 20, 1994, with a combustion capacity greater than two hundred fifty (250) tons per day of municipal solid waste. Standards for these sources were adopted by U.S. EPA for the first time in December 1995. The only Indiana source to which this rule will apply is the mass burn steam generating plant that serves the City of Indianapolis. This plant is currently owned and operated by Covanta Indianapolis, Inc. and consists of three (3) mass burn steam generating units. Each unit is capable of burning seven hundred twenty-six (726) tons per day of municipal solid waste.

Section 129 of the Clean Air Act requires U.S. EPA to review, and if appropriate, revise the new source performance standards (NSPS) and emission guidelines for existing sources for each incinerator category every five (5) years. On May 10, 2006 (71 FR 27324), U.S. EPA published a final rule amending the emission standards for new and existing MWC units. For existing MWC units, the goal of this action was to amend the standards to reflect the actual performance levels being achieved by existing MWC units. For new MWC units, the goal of this action was to amend the standards to reflect the performance level achievable by MWC units to be constructed in the future. There are three (3) types of revisions that resulted from U.S. EPA's review of the standards: revisions to the emission limits; revisions to compliance testing provisions; and other revisions. The emissions limits have been reduced for dioxin/furan (only for units equipped with electrostatic precipitators (ESPs)), mercury, cadmium, lead, particulate matter, and nitrogen oxides (for some types of units). The compliance testing

provisions have been revised to require increased data availability from continuous emissions monitoring systems (CEMS). The revisions require CEMS to generate at least ninety-five percent (95%) data availability on a calendar year basis and a least ninety percent (90%) data availability on a calendar quarter basis. The compliance testing provisions have also been revised to allow the optional use of CEMS to monitor particulate matter and mercury. Other revisions include:

- addition of operator stand-in provisions to clarify how long a shift supervisor is allowed to be off-site when a provisionally certified control room operator is standing in;
- establishment of an eight (8)-hour block average for measuring activated carbon injection rate;
- ability to waive operating parameter limits during the mercury performance test and for two (2) weeks preceding the test, as is already allowed for dioxin testing;
- revision of relative accuracy criterion for sulfur dioxide and carbon monoxide CEMS;
- flexibility added to the annual compliance testing schedule so that a facility tests once per calendar year, but no less than nine (9) months and no more than fifteen (15) months since the previous test;
- allowing use of parametric monitoring limits from an exceptionally well-operated MWC unit to be applied to all identical units at the same plant site without retesting for dioxin;
- option for monitoring the activated carbon injection pressure or equivalent parameter; and
- clarifying exclusion of monitoring data from compliance calculations.

In this rulemaking IDEM is proposing to update the emissions standards originally adopted by the air pollution control board in 1998, to be consistent with the amended federal emission guidelines for existing units. The emission guidelines for existing sources are not directly enforceable and are implemented by the state through state plans; a

state rule or other enforceable mechanism. IDEM will update the current state plan for municipal waste combustors and submit to U.S. EPA for approval when this rulemaking is final. This rulemaking does not address the NSPS because NSPSs under 40 CFR 60 are incorporated by reference in Article 12 and the amendments to the MWC NSPS will be incorporated into state rule in a separate rulemaking through the annual update of the references to the code of federal regulation (CFR) definition. This rulemaking also does not address the compliance testing and operator training type revisions for existing sources since these federal requirements are incorporated by reference in 326 IAC 11-7 and the amendments will also be picked up in the annual update of the references to the CFR definition.

Consistent with Clean Air Act Section 129, U.S. EPA expects states to require compliance as expeditiously as practicable. IDEM is proposing to require compliance with the revised emission limits on the effective date of this rulemaking. Stack test results from 2006 indicate that the source is already meeting the revised emission limits. IDEM is proposing to adopt the same emission limits that are in the federal emission guidelines, which means changing the emission limits for particulate matter (PM), cadmium, lead, and mercury. In the current state rule, the PM limit is more stringent than the original federal emission guidelines and was based on the PM limit existing in a permit for Covanta at the time the limit was adopted. The new twenty-five (25) milligrams per dry standard cubic meter corrected to seven percent (7%) oxygen emission limit in the federal amendments is now more stringent than the permit based emission limit of twenty-three (23) milligrams per dry standard cubic meter corrected to twelve percent (12%) carbon dioxide. IDEM is also proposing to repeal 326 IAC 11-7-9 since the compliance schedule for the original emissions limits is no longer needed and the revised emission limits will be effective upon the effective date of this rulemaking.

### **Scheduled Hearings**

First Public Hearing: December 6, 2006, Room A, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana.  
Second Public Hearing: To be determined.

### **Consideration of Factors Outlined in Indiana Code 13-14-8-4**

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
  - (A) human, plant, animal, or aquatic life; or
  - (B) the reasonable enjoyment of life and property.

### **Consistency with Federal Requirements**

The amendments are consistent with federal rules.

### **Rulemaking Process**

The first step in the rulemaking process is publication of one of three types of notices in the *Indiana Register*. The first type of notice is a first notice of comment period. The first notice

of comment period includes a discussion of issues and opens a first comment period. A second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The second type of notice is a section 7 notice. A section 7 notice contains a determination by the commissioner under IC 13-14-9-7 that only one comment period is required. It contains the commissioner's determination and findings, the draft rule, a request for written comments and a notice of first meeting/hearing. The third type of notice is a section 8 notice. A section 8 notice contains a determination by the commissioner under IC 13-14-9-8 that no public comment periods are required. It contains the commissioner's determination and findings, the draft rule and a notice of first meeting/hearing. In each case the Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Publisher. This rulemaking was initiated with a section 7 notice.

### **IDEM Contact**

Additional information regarding this rulemaking action can be obtained from Susan Bem, Rules Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027 (in Indiana).